

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 314**  
FINAL READING

Introduced by Bohlke, 33; Cudaback, 36

Read first time January 12, 1999

Committee: Education

A BILL

- 1 FOR AN ACT relating to schools; to create the Hardship Fund; to
- 2 provide for distribution of the fund for unexpected
- 3 occurrences as prescribed; and to declare an emergency.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1.   The Hardship Fund is created. Money in the  
2 fund shall be distributed to school districts pursuant to section 2  
3 of this act. The fund shall consist of funds appropriated by the  
4 Legislature and funds repaid and interest paid by districts as  
5 required by section 2 of this act. Any money in the fund available  
6 for investment shall be invested by the state investment officer  
7 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
8 State Funds Investment Act.

9           Sec. 2.   (1) A school district may apply to the  
10 Commissioner of Education for money from the Hardship Fund if one  
11 or more unexpected discrete occurrences cause the district  
12 financial distress. Such occurrences are limited to:

13           (a) One or more new special education students or one or  
14 more new disabling conditions of a special education student  
15 causing special education expenditures to increase by at least ten  
16 percent over the prior school fiscal year's special education  
17 expenditures, but not less than three times the cost grouping cost  
18 per student in the standard cost grouping for the current school  
19 fiscal year;

20           (b) The opening of a group home causing expenditures to  
21 increase by at least ten percent over the prior school fiscal  
22 year's special education expenditures but not less than three times  
23 the cost grouping cost per student in the standard cost grouping  
24 for the current school fiscal year;

25           (c) Clerical errors by public officials, other than any  
26 person employed by or serving on the school board of the requesting  
27 district, that are affecting the funding available to the district;  
28 and

1           (d) The final calculation of state aid pursuant to  
2 section 79-1065 causes a negative adjustment reducing the aid  
3 originally calculated for the district by fifty percent or more.

4           (2) To qualify for money from the fund, a district shall  
5 have:

6           (a) Budgeted reserves equal to at least ninety-eight  
7 percent of the applicable allowable reserves authorized pursuant to  
8 section 79-1027 for that district for the most recent budget prior  
9 to the district becoming aware of the unexpected occurrence. Any  
10 budget amendments filed pursuant to section 13-511 after the  
11 district becomes aware of the unexpected occurrence will not be  
12 considered when determining if a district qualifies for money from  
13 the fund; and

14           (b) A current combined levy equal to or greater than  
15 ninety-five percent of the maximum levy authorized pursuant to  
16 section 77-3442 for all general and special levies subject to the  
17 limitation.

18           (3) The commissioner shall provide application forms to  
19 requesting districts which shall not be longer than one page. The  
20 forms shall require (a) the name and county district number of the  
21 school district, (b) a description of the unexpected discrete  
22 occurrence, (c) the estimated cost of the unexpected discrete  
23 occurrence for the affected school fiscal year, (d) the applicable  
24 allowable reserves authorized pursuant to section 79-1027 for the  
25 most recent budget prior to the district becoming aware of the  
26 unexpected discrete occurrence, (e) budgeted reserves pursuant to  
27 section 79-1027 for the most recent budget prior to the district  
28 becoming aware of the unexpected discrete occurrence, (f) the

1 current combined levy for all general and special levies subject to  
2 limitation pursuant to section 77-3442, and (g) the name and  
3 address of at least one financial institution utilized by the  
4 school district. The commissioner is not limited to the  
5 information contained in the application for determining whether or  
6 not to grant an application for money from the Hardship Fund.

7 (4) On or before the fifth day following receipt of an  
8 application for distribution of money from the Hardship Fund, the  
9 commissioner shall send a notice to the financial institutions  
10 listed by the school district. The notice shall (a) explain the  
11 Hardship Fund, (b) state the name of the school district that has  
12 applied for distribution of money from the Hardship Fund, (c) state  
13 the deadline for determination by the commissioner, (d) state the  
14 interest rate that the State Treasurer will use to calculate  
15 interest, and (e) explain that the financial institution may offer  
16 its services to the district as an alternative to money from the  
17 Hardship Fund. No action of a financial institution shall prevent  
18 the commissioner from approving a distribution of money from the  
19 Hardship Fund for a school district.

20 (5) The commissioner shall notify the district of his or  
21 her determination within thirty days after receiving the  
22 application. At least one representative of the school district  
23 shall be allowed an opportunity to meet with the commissioner to  
24 discuss the application prior to the commissioner's determination  
25 on the application. The commissioner may award any amount of  
26 available money from the fund he or she deems appropriate, except  
27 that the amount may not exceed the costs incurred by the district  
28 due to the occurrence. The commissioner is not required to award

1 any money under this section in response to any particular request.

2 (6) The district shall repay the fund in full in a manner  
3 to be determined by the commissioner with interest calculated by  
4 the State Treasurer at fifty percent of the rate determined  
5 pursuant to section 45-104.02 for the delinquent payment of taxes  
6 to the State of Nebraska. When any school district fails to make  
7 any scheduled repayment, the commissioner shall, after notice to  
8 the district and an opportunity to be heard, direct that any state  
9 aid due the district pursuant to the Tax Equity and Educational  
10 Opportunities Support Act be withheld and transferred to the  
11 Hardship Fund until the balance of the money received by the  
12 district from the fund plus interest calculated by the State  
13 Treasurer has been repaid to the fund and shall bring such further  
14 legal action as may be necessary for the fund to be repaid with  
15 interest as calculated by the State Treasurer. If a district  
16 reorganizes or dissolves, the repayment of money received from the  
17 fund plus interest calculated by the State Treasurer shall be a  
18 liability and shall be assigned pursuant to subsection (2) of  
19 section 79-479.

20 (7) Before money is distributed to a district under this  
21 section, the president of the school board shall sign an agreement  
22 stating that:

23 (a) The costs for which money is being distributed are as  
24 accurate as can be determined at that point;

25 (b) The occurrence was unexpected; and

26 (c) The district will make required repayments to the  
27 fund.

28 (8) Up to two-thirds of the amount appropriated shall be

1 available to be awarded for requests received under this section  
2 between July 1 and December 31 of each fiscal year. The remainder  
3 of the amount appropriated shall be available to be awarded for  
4 requests received under this section between January 1 and June 30  
5 of each fiscal year.

6 (9) Nothing in this section guarantees an award of money  
7 from the Hardship Fund to any district. Money from the fund shall  
8 be paid as a lump sum to each district receiving funds and shall be  
9 limited to a one-year impact per unexpected discrete occurrence.

10 (10) The State Department of Education shall remit funds  
11 repaid by school districts as required by this section to the State  
12 Treasurer for credit to the Hardship Fund.

13 (11) The Commissioner of Education shall report to the  
14 Education Committee and the Appropriations Committee of the  
15 Legislature and the Governor on or before December 1 of each year  
16 for the preceding fiscal year. The report shall include (a) a list  
17 of all applications with the amounts requested and a description of  
18 the unexpected discrete occurrence that caused the district  
19 financial distress and (b) a list of the districts receiving  
20 hardship funds, including the amount awarded and repayment  
21 conditions.

22 Sec. 3. Since an emergency exists, this act takes effect  
23 when passed and approved according to law.